

In the Matter of )  
 ) D 03 - 33  
**Wheat & Associates Insurance, Inc.,** )  
 ) STIPULATION AND CONSENT ORDER  
 )  
 *Licensee.* )

1. Mary Manum, Office of the Insurance Commissioner (OIC) Insurance Examiner II, completed an on-site financial exam and filed her final report of Wheat & Associates Insurance, Inc., ("Licensee") on January 2, 2003. Prior to her arrival on October 29, 2002 the agency owner, David Wheat, hired a CPA to conduct a complete audit of the premium account. The audit determined that, as of September 30, 2002, the premium account was under funded \$46,576. Mr. Wheat made a deposit of \$45,000 to the premium account October 28, 2002. This additional deposit brought the premium account to a positive position. The under funded condition of the account and the actions of the agency owner that resulted in the under funded account violated RCW 48.17.480, reporting and accounting of premium and RCW 48.17.600 separation of premium funds.
2. OIC's Mary Manum found that during the period, October 2001 through September 2002, the under funding of the premium account varied based on the amount of premiums that were advanced by the licensee on behalf of his customers before payments were made by the customer. The licensee was making the payments by using the monies of other customers who had pre-paid their insurance premiums to the licensee. Each of these acts violated RCW 48.17.480, reporting and accounting of premium and RCW 48.17.600, separation of premium funds.
3. Licensee failed to refund return premiums or overpayments for five different customers totaling over \$472. Licensee also failed to send two checks to the Department of Revenue for refunds where the customer could not be located. These refunds total over \$589. Each of these acts violated RCW 48.17.480, reporting and accounting of premium and RCW 48.17.600, separation of premium funds.
4. Licensee allowed individuals, who were affiliated to the licensee, to offer insurance to customers without the licensee being properly appointed to the company. These are violations of WAC 284-17-420, appointment, affiliation and renewal procedures.

STIPULATION AND ORDER

No. D 03 - 33

Page 2

CONSENT TO ORDER:

1. Licensee hereby admits to the foregoing Stipulated Facts. Licensee acknowledges its duty to comply fully with the applicable laws of the State of Washington.
2. The Commissioner has offered a settlement in lieu of suspending or revoking the licensee's insurance agent's license.
3. By agreement of the parties, the OIC will impose a fine of \$5,000 on the Licensee for the violations set forth herein. In addition, the parties agree that OIC will suspend collection of \$2,500 of the fine if the following conditions are met:

CONDITIONS:

1. The licensee shall pay the \$2,500 fine within thirty days of the effective date of this Order.
2. The licensee shall make changes to its accounting system(s) to ensure proper compliance with the timely reporting and accounting of premiums in compliance with RCW 48.17.480.
3. The licensee shall make changes to its accounting system(s) to ensure proper compliance with the separation of premium funds in compliance with RCW 48.17.600.
5. The licensee will provide OIC with quarterly financial statements for a period of one year, demonstrating its compliance with RCW 48.17.480 and RCW 48.17.600.
6. The licensee will secure direct appointments with the companies that it does business with.

EXECUTED and AGREED this 11<sup>th</sup> day of February, 2003.

By: \_\_\_\_\_  
David N. Wheat, President  
Wheat & Associates Insurance, Inc., Licensee

STIPULATION AND ORDER

No. D 03 - 33

Page 3

ORDER

Pursuant to RCW 48.17.560 and the foregoing Consent Order, the Commissioner hereby imposes a total fine in the amount of \$ 5,000 upon Wheat & Associates Insurance, Inc. and suspends \$ 2,500 of the fine.

The \$ 2,500 fine shall be paid in full within thirty days from the date of this Order. If the licensee fails to pay the fine, the Commissioner will revoke the license of Wheat & Associates Insurance, Inc., and the total fine, including the suspended amount, will be recoverable in a civil action brought on behalf of the Commissioner by the Attorney General's Office.

Failure to comply with all of the conditions set forth in the Conditions Section of the Stipulation and Consent Order shall constitute grounds for collection of the entire amount of \$ 5,000 and the automatic and immediate revocation of the insurance agent license of Wheat & Associates Insurance, Inc.

ENTERED AT LACEY, WASHINGTON, this 14<sup>th</sup> day of February, 2003.

MIKE KREIDLER  
Insurance Commissioner

By

SCOTT JARVIS  
Deputy Commissioner

Examiners: Mary Manum